

EXHIBIT D

**FORM OF CONFIDENTIALITY UNDERTAKING
FOR SUBCONTRACTORS**

MASTER SERVICES AGREEMENT

REGARDING

DIVISION OF FAMILY RESOURCES MODERNIZATION PROJECT

By and Between

THE STATE OF INDIANA,

ACTING ON BEHALF OF

THE FAMILY AND SOCIAL SERVICES ADMINISTRATION,

And

INTERNATIONAL BUSINESS MACHINES CORPORATION

EXHIBIT D

Form of Confidentiality and Non-Disclosure Agreement

[DATE]

[SUBCONTRACTOR]

[SUBCONTRACTOR'S ADDRESS]

[ATTN: CONTACT PERSON]

RE: Confidentiality and Non-Disclosure Agreement

Dear **[CONTACT PERSON]**:

You are being engaged by International Business Machines Corporation ("Vendor") to provide certain goods or services to or on behalf of Vendor for the benefit of The Family and Social Services Administration of the State of Indiana ("FSSA") and other agencies of the State in connection with its modernization project regarding its Division of Family Resources as contemplated by the Master Services Agreement between the State and Vendor dated _____, 2006 ("Project"). As part of the services you will provide, FSSA may provide you, in connection with the Project, information which will qualify as Confidential Information (as defined in the subcontract between you and Vendor in support of the Master Services Agreement)

You acknowledge and agree, as a condition to your engagement by Vendor and to FSSA furnishing such information to you, as follows:

1. Confidential Information does not include public information as indicated in Paragraph 9 below.
2. You will treat the Confidential Information confidentially, whether furnished orally or in writing and will cause each of your Representatives to also treat the Confidential Information confidentially. As used herein, the term "Representatives" means your directors, officers, employees, attorneys, accountants, advisers and other specifically authorized representatives.
3. This Agreement will bind and inure to the benefit of your affiliates, successors and assigns, to this Agreement and any amendments hereto, provided that you may not assign any right or delegate any duty under this Agreement without the prior written consent of FSSA.

4. You represent and warrant to us that, as part of your customary practices, each of your Project Employees executes and is bound by confidentiality obligations with respect to any of your confidential and proprietary information, which obligations extend to the Confidential Information and that these obligations survive termination of an employee's employment. You covenant that during the term of your agreement with Vendor, you will maintain such confidentiality practices.
5. You disclaim all title and interest in the Confidential Information, other than the right to use the Confidential Information as necessary to perform the services you are providing to FSSA. Confidential Information is and shall remain the property of FSSA.
6. You will use the Confidential Information solely in connection with such services for the Project. You will not make any commercial use, practice, disclosure, dissemination, publication or exploitation of the Confidential Information without FSSA's written consent. You will keep the Confidential Information confidential as provided herein; provided, however, that (i) any of the Confidential Information may be disclosed to your Representatives, on a need-to-know basis, in connection with the Project (collectively, "authorized recipients"), and (ii) disclosure of Confidential Information may be made to which FSSA consents in advance in writing or as specifically contemplated below. You agree to inform your authorized recipients of the confidential nature of the Confidential Information and to direct them to treat the Confidential Information confidentially and to use it only in connection with the Project.
7. You will use, and cause your authorized recipients to use, the greater of (i) the same care and discretion with regard to the Confidential Information as you employ with regard to similar information of your own which you do not desire to publish, disclose or disseminate, or (ii) the standard of care used with similar confidential or proprietary information by reasonable persons situated in the same or similar business or service environment.
8. You acknowledge that FSSA is subject to various laws ("Public Access Laws") which require it to provide access to certain information upon proper request for that information and that some of the Confidential Information may be subject to the Public Access Laws. You will cooperate with FSSA to support its compliance with these obligations as FSSA may reasonably require.

9. In the event that you or any of your authorized recipients or Representatives receive a request for access to the Confidential Information under the Public Access Laws or are otherwise requested by oral or written order, inquiry or request for information or documents in legal proceedings, interrogatories, subpoenas or any other similar process to disclose any Confidential Information, you agree that you will provide FSSA with prompt notice of any such order, inquiry or request so that either you or FSSA may seek an appropriate protective order or by mutual written agreement, waive compliance with the provisions of this Agreement. Further, disclosure of the Confidential Information is not prohibited and may be made (after compliance with the other applicable provisions hereof) pursuant to the requirements of any applicable law, by order of any court or other adjudicative body of competent jurisdiction or governmental agency.
10. The term "Confidential Information" does not include information which is or becomes in the public domain or otherwise generally available to the public other than as a result of a disclosure by you.
11. Promptly upon request by FSSA, or upon completion or termination of services being provided by you with respect to the Project, you will deliver to FSSA all tangible documents and information constituting all or any portion of the Confidential Information which has been provided to you or is created by you in connection with the services you are providing, without retaining any copy thereof.
12. At the request of FSSA, you will execute a Business Associate Agreement as required under the Health Information Portability and Accountability Act and regulations promulgated thereunder (collectively, "HIPAA").
13. It is further understood and agreed that no failure or delay in exercising any right, power or privilege hereunder shall operate as a waiver thereof, nor shall any single or partial exercise thereof preclude any other or further exercise thereof or the exercise of any right, power or privilege hereunder.
14. It is further understood and agreed that money damages would not be a sufficient remedy for any breach by you of this Agreement and that FSSA shall be entitled to specific performance or an injunction as a remedy for any such breach or non-compliance, without the necessity of posting any bond or proving any actual damages. Such remedy shall not be deemed to be the exclusive remedy for the breach or non-compliance of this Agreement but shall be in addition

to all other remedies available at law or in equity, including, but not limited to, the right to receive reasonable attorneys' fees, accountant's fees, expert witness fees, and other costs.

15. You acknowledge that (i) other than this Agreement or any other agreement or undertaking between you and the State, you have no privity with the State and (ii) you have no cause of action or claim of any kind against the State for any claims, issues, disputes, losses or liabilities arising out of or in any way related to your subcontract with Vendor.
16. This Agreement is governed by, interpreted, construed and enforced in accordance with the laws of the State of Indiana (excluding any conflict of laws rules or principles that might refer such interpretation to the laws of another jurisdiction).

* * * * *

[Remainder of this page intentionally left blank]

Please indicate your agreement by signing in the space provided below.

Very truly yours,

STATE OF INDIANA (ACTING THROUGH ITS
FAMILY AND SOCIAL SERVICES
ADMINISTRATION)

By: _____
Printed: _____
Title: _____

Agreed to and accepted this ____ day of _____, 2006.

[SUBCONTRACTOR]

By: _____
Printed: _____
Title: _____

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